

April 13, 2006

IMMEDIATE RELEASE

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IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 30944

CITY OF BOISE, a municipal corporation of)	
the State of Idaho,)	
)	Boise, May, 2005 Term
Petitioner-Respondent,)	
)	2006 Opinion No. 37
v.)	
)	Filed: April 13, 2006
DAVID FRAZIER, an interested party,)	
)	Stephen W. Kenyon, Clerk
Respondent-Appellant.)	
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael R. McLaughlin, District Judge.

The judgment of the district court is reversed and remanded.

Davison, Copple, Copple & Cox, Boise, for appellant. Heather A. Cunningham argued.

Boise City Attorney's Office, Boise, for respondent. Matthew K. Wilde argued.

Skinner, Fawcett & Mauk, Boise, for respondent. Dennis Gibala appeared.

In an opinion released today, the Idaho Supreme Court reversed a district court decision authorizing the City of Boise (the City) to incur public indebtedness in order to expand the parking facilities at the Boise Airport. The City sought judicial confirmation in district court allowing the City to incur long term debt to finance a proposed five level parking structure. David Frazier (Frazier), an interested party, opposed the City's petition for judicial confirmation. Following discovery and a hearing, the district court granted the City's petition.

On appeal to the Idaho Supreme Court, Frazier argued that the financing agreement entered into by the City was in violation of Article VIII, section 3 of the Idaho

Constitution, which generally bars cities from incurring debts or liabilities without first conducting an election to secure voter approval. However, under that section no public vote is required if the expenditure is for an “ordinary and necessary” expense. The City argued that construction of the proposed parking structure was such an “ordinary and necessary” expense exempt from the Article VIII, section 3 election requirement.

In reaching its decision the Idaho Supreme Court noted that for an expenditure to qualify as “necessary” as the word is used in Article VIII, section 3 of the Idaho Constitution, there must exist a necessity for making the expenditure at or during such year. The required urgency can result from a number of possible causes, such as threats to public safety, the need for repairs, maintenance, or preservation of existing property, or a legal obligation to make the expenditure without delay. The Court observed that although providing additional public parking at the Boise Airport is an important goal, it does not require an emergency expenditure of the type that would exempt the City from first seeking voter approval.